IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION ST.NO.23062 OF 2004

Anand N. Shetty, Manager of
Hotel Sandhya Restaurant
and Bar .. Petitioners

Versus

State of Maharashtra & Ors. .. Respondents.

Mr.Pankaj Kansara for petitioners
Mr.C.R.Sonawane, A.G.P. for State.

CORAM : A.M.KHANWILKAR, J.

DATE : AUGUST 27, 2004.

P.C.

1. Heard learned Counsel for the parties. Rule. Rule is made returnable forthwith by

consent. Mr.Sonawane, A.G.P. waives notice for respondents. As a short question is involved, the petition is taken up for final disposal forthwith by consent.

2. Police licence issued in favour of the petitioner in respect of Hotel Sandhya Restaurant and Bar has been cancelled by the Dy.Commissioner of Police, Greater Mumbai vide order dated 18th August 2004. Against this decision, petitioner has carried the matter in appeal before the State Government. The grievance in this petition, essentially is that, neither the said appeal is being decided on its own merits nor prayer for interim relief has been considered. It is suggested that now the stand taken by the concerned department is that due to issuance of notification for conduct of assembly elections code of conduct has come into force and the concerned Minister will not be able to decide the appeal. To overcome this problem Mr.Sonawane,

learned A.G.P. was called upon to take instructions as to who shall be the appropriate authority to decide the pending appeal in absence of the concerned Minister. On instructions it is stated that in such situation the appeal can be decided by the Principal Secretary of the concerned department. If it is so, without going into the merits of the contentions raised in the petition, the appropriate course to my mind is to direct appropriate authority to finally decide the pending appeal within six weeks from today. Till the appeal is finally disposed of within the specified time and the order in the said appeal is communicated to the petitioner, operation of the impugned order passed by the Dy.Commissioner of Police shall remain stayed, having regard to the fact situation of the present case, inasmuch as the licence has been cancelled mainly on the ground that the heirs of the licence holder failed to inform the authorities about the death of the licence holder. In the event, the

appellate authority proceeds to pass adverse order against the petitioner, the interim protection granted to petitioner shall continue for a period of two weeks from the date of communication of the order of the appellate authority to the petitioner.

3. Petition is disposed of keeping all the questions open on the above terms with no orders as to costs. Parties to act on an authenticated copy of this order.

*****